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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,916	02/28/2000	ANDREAS METELSKI	288.999651	7293

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

**Office Action Summary**

Application No.

09/423,916

Applicant(s)

METELSKI ET AL.

Examiner

Steven M Marsh

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-42, 44, and 45 is/are rejected.
- 7) ☒ Claim(s) 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This is the fifth office action for U.S. Application 09/423,916 for a Microscope Stand, Especially for a Surgical Microscope filed by Andreas Metelski et al. on February 28, 2000.

#### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Allowable Subject Matter***

Claim 43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims that the first material and second material are rigidly connected so that they are "thrust-elastically damped". It is not clear what

Art Unit: 3632

Applicant means by this term and the claim is being searched to the best extent possible.

***Claim Rejections - 35 USC § 103***

Claims 14-39, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,609,316 to Tigliev in view of U.S. Patent 3,850,307 to Motoda in further view of U.S. Patent 4,047,731 to Van Auken. Tigliev discloses a microscope stand having a plurality of support members (30,34,40). The support members are connected by metallic interfaces that form a stress free connection between the adjacent parts. The stand has either positioning feet or wheels (see column 2, line 47) and elastomeric pads can be provided as a damping layer between either the wheels and the base (see column 2 line 46) or the base and the floor. Tigliev does not specifically disclose tubular support members.

Motoda discloses an article handling apparatus with a parallel linkage having a plurality of support members. One of the support members (36) is tubular and has an internal structure. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a tubular support member on the apparatus taught by Tigliev, as taught by Motoda, for the purpose of allowing an internal structure to be provided in one of the support members.

Tigleiev in view of Motoda does not disclose plurality of support member with first and second concentric tubes formed of first and second materials having a substantially different moduli of elasticity. Van Auken discloses a plurality of tubular support

Art Unit: 3632

members (11, 12, and 13) that have first (the aluminum core) and second concentric tubes (the surrounding reinforced plastic) that are rigidly connected to each other via an adhesive (see col. 3, lines 41-47) an elastically damped. Van Auken does not specifically disclose cement as the adhesive, but cement is a known commercially available adhesive, and it would have been obvious to one of ordinary skill in the art to use it. The tube is designed to be strong and yet remain lightweight. See col. 2, lines 18-52. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have made the plurality of tubular support members taught by Tigliev in view of Motoda, out of aluminum surrounded by fiber-reinforced plastic as taught by Van Auken, for the purpose of providing strength and keeping the support lightweight.

Tigliev in view of Motoda, in further view of Van Auken does not specifically disclose the type of fiber-reinforced plastic that is claimed in claims 16-23 or prestressing the members as claimed in claims 44 and 45, however, that is a matter of engineering preference and would have been obvious to one of ordinary skill in the art at the time of the present invention. Nor does Tigliev in view of Motoda, in further view of Van Auken specifically disclose the fiber orientations and winding methods claimed in claims 25-27, however, that too is a matter of engineering preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigliev in view of Motoda, in further view of Van Auken, and in further view of U.S. Patent 4,690,960 to Yamauchi et al. Tigliev in view of Motoda, in further view of Van

Art Unit: 3632

Auken does not disclose a base consisting of two plates rigidly connected around a honeycomb structure. Yamauchi et al. discloses a bed for supporting a microscope (see Column 1, lines 16-25). The bed consists of two plates (72 and 73) fastened around an aluminum honeycomb structure by an adhesive. It would have been obvious to one of ordinary skill in the art at the time of the present invention, to have utilized the teaching of Yamauchi et al. and insert a honeycomb structure in the base taught by Tigliev in view of Motoda, in further view of Van Auken, for the purpose of providing a lightweight, vibration dampening base.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tigliev in view of Motoda, in further view of Van Auken, and in further view of U.S. Patent 3,637,233 to Hoppl et al. Tigliev in view of Motoda, in further view of Van Auken does not disclose a positioning means for lowering the feet of the base. Hoppl et al. disclose a microscope stand with a base, which has wheels (41 and 43) and feet (36 and 37), as well as a means for simultaneously lowering the feet (54). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized the base taught by Hoppl et al., with the microscope stand taught by Tigliev in view of Motoda, in further view of Van Auken, for the purpose of providing a microscope stand with a means for switching between mobile and stationary.

### ***Response to Arguments***

Applicant's arguments with respect to claims 14-42, 44, and 45 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3632

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,664,644 to Kumata et al.


The above patent discloses a reinforced tube

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven Marsh

February 21, 2003



ANITA KING  
PRIMARY EXAMINER